



**LOUISVILLE, KENTUCKY
LOUISVILLE METRO BOARD OF HEALTH**

**WILLIAM M. ALTMAN, JD, MA
BOARD CHAIR**

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BOARD VICE-CHAIR**

Findings and Recommendations Regarding Proposed Hospital Merger

November 22nd, 2011

Board of Health Members

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** Dr. Temes recused himself from voting on the merger issue.*

Louisville Metro Board of Health Mission

The Board of Health acts as an independent voice to promote and protect equitable physical, mental, and environmental health in the Louisville community through advocacy, education, regulation, and collaboration with public and private entities.

Context and Process for Board of Health Involvement

The Board of Health became aware of the proposed merger of University Hospital and the James Graham Brown Cancer Center with Jewish Hospital and St. Mary's Health Care and Catholic Health Initiatives in April of 2011. At that time, the Board agreed that this represented an issue of significant public health import. The Board of Health representatives contacted representatives of each of the merging organizations and began a series of conversations with the merger representatives to better understand the specifics of the proposed merger and its potential consequences.

The Board of Health's involvement in the proposed hospital merger has followed a process guided by the core public health functions of assessment, policy development, and assurance. The Board is committed to a process that is fair, transparent, and informed by available facts, respectful dialogue, and community input. Above all, our actions are guided by our Mission and our commitment to the public health interests of the community.

The primary questions guiding Board of Health involvement are as follows:

1. Is the community aware of the hospital merger and its possible implications?
2. Is the community's voice being heard in the dialogue around the hospital merger?
3. What will be the effect of the hospital merger on health equity in our community?
4. What will be the effect of the hospital merger on health access in our community?

Given these questions, the Board of Health has worked to assure that the community is aware of this issue and its implications; to engage the community and other stakeholders in dialogue through media, conversations, and a community forum; to amplify the community's voice; and to raise questions regarding health equity and health access. The Board of Health has communicated its questions, concerns, and process to the community at large, to the merger representatives, Mayor Fischer, Governor Beshear, and Attorney General Conway.

Community Input

Meaningful community participation is a vital component of good policy development. To this end, the Board of Health held an open-to-the-public community forum on October 19th and invited the merger representatives to participate on a panel to directly answer the questions and concerns of the community. The Board solicited questions from the community via

electronic mail prior to the forum and in writing at the forum. While many questions were addressed at the forum, the Board of Health received over 120 questions via email alone, and therefore not all questions were answered. The Board of Health has submitted all questions that were received before, during, and after the forum to the merger representatives so that they may provide specific answers to the community's questions. Community members have continued to submit questions and comments after the forum and the Board of Health has compiled these into a living document. Reading through the questions, it is apparent the main issues of interest to the community (as construed from the questions and comments received) are (in order of frequency) reproductive health services; merger structure and finances; access to care and indigent care; issues related to University Hospital being a public institution and separation of church and state; employee benefits; research and academic integrity concerns; end of life care and same-sex partner rights and benefits. Attached is a graph that shows the distribution of the issues addressed in the community questions and comments received by the Board of Health so far.

Framework for Developing Recommendations

The issue of the hospital merger has raised numerous questions. While all of the questions merit answers, only matters of public health are within the purview of the Board of Health. We look to our Mission as well as to public health knowledge, core values, and functions to guide this process. The first phase of our involvement has focused on assessment of the hospital merger issue. The second phase has included informing, educating, and empowering the community. The second phase also includes the development of policy recommendations. The third phase is that of assurance, which includes assuring that there is a competent workforce to provide public health and health care services, linking people to needed personal health services, and monitoring and evaluation. The Board of Health presents these recommendations as part of the policy development phase. The matter of assurance is addressed within the recommendations we have developed.

The Board of Health posed the following questions to its members as a framework for developing recommendations.

1. *Process and community engagement.* *Was the process of informing and engaging the community of this significant public health issue appropriate and timely? How could community awareness and participation be improved in the future?*
2. *Rationale for merger.* *Given what we know at this point, what is the rationale for a merger (or other such action) and does the stated rationale raise important public health issues?*
3. *Health access and health equity.* *Given what we know at this point about the merger and its potential consequences, what is the potential impact on health access and health equity?*

4. Assurance and monitoring. *If the merger goes through, what is necessary to assure that health access and health equity are maintained or improved? How can the community continue to play a role as a key stakeholder in this process?*

Findings and Recommendations

1. Process and community engagement. Once the merger became known to the public, The Board of Health believes that a robust community dialogue occurred and that substantial information was shared through the media, public hearings, public documents and a community forum hosted by the Board. However, The Board of Health also believes that given the level of importance and potential impact of the proposed merger, the community should have been informed in a timelier and more proactive manner. We believe that the merger representatives, the media, and the Board of Health itself failed to inform and engage the community earlier in the process. In addition, though the Board of Health provided the opportunity for community input through one public forum and solicited questions in advance through email, certain community groups may not have access to email or could not attend the public forum, which raises important health equity questions. The Board of Health recommends that in the future, public health and health care entities involved in efforts or transactions of public health import make transparent and timely communication with the community and the Board of Health a priority and that specific efforts be made to afford opportunities to all sectors of the community to have their concerns heard. The Board of Health will develop an operational definition of what constitutes a matter of public health import and will communicate with agencies and organizations to request that matters that fit the provided definition be shared with the Board of Health in a timely manner.
2. Rationale for merger. As stated above, the Board of Health is charged with educating the community about significant changes in the health care delivery system that could impact public health and assuring continued health access and health equity. The proposed merger raises important public health issues because it involves University Hospital, the primary safety net hospital in Metro Louisville. University Hospital receives millions of dollars in state and city funds to care for patients unable to pay, so it is important for the Board and the community to understand the rationale for the merger and its potential impact on health access and health equity.

The Board of Health recognizes the efforts of the merger organizations in providing information, public engagements, and documents to explain the rationale for the

merger. Specifically, the merger organizations have stated that the financial circumstances of the individual organizations compel the conclusion that the merger is necessary to achieve stability, to continue to provide access to care (including indigent care), to improve the infrastructure of the organizations to prepare for changes in the health care delivery system, and to advance the teaching and research mission of University Hospital. Further, the Board appreciates that the merger entities all participated in the community forum organized by the Board of Health and have continued to provide written answers to questions posed by the Board and the community. While much information has been forthcoming, questions remain regarding whether alternatives to the current proposed merger have been fully considered, the consequences on access of not merging, and other important matters. The Board of Health has not had access to detailed financial and other information regarding the merger and its impact on continued access to care and therefore is unable to draw a definitive conclusion regarding the extent to which the stated rationale for the merger is supported. Many community members asked, for example, whether the impetus for merger is truly to preserve and expand continued access to care versus pursuing arrangements that are financially advantageous to the merging organizations. The Board of Health acknowledges that the rationale for the merger very well be valid and that a relationship exists between financial stability of healthcare organizations and continued access to care, especially given the dramatic changes in the health care delivery system occurring across the nation, including here in Louisville.

The Board of Health recommends that the Governor, who presumably will have greater access to financial and other information of the merging organizations in the process of determining whether to approve the merger, work with the merger organizations to evaluate whether the stated rationale for the merger is supported.

3. *Health access and health equity.* The Board of Health understands health access broadly as the ability to enter and use the health care system. We recognize that access is affected by numerous factors including transportation, hours of operation, location, cost, institutional culture, ability to communicate, quality of care, types of services offered, and others. While there are numerous definitions of health equity¹, the Board of Health understands health equity to include making sure that no group of people is treated unfairly or disadvantaged by policies, programs, or other system factors in a way that results in differences in health. We also understand that health equity relies on

¹ According to Healthy People 2020, "Health equity is achieving the highest level of health for all people. Health equity entails focused societal efforts to address avoidable inequalities by equalizing the conditions for health for all groups, especially for those who have experienced socioeconomic disadvantage or historical injustices."

equitable distribution in providing (and enforcing) access to opportunities and resources in a manner proportionate to need.

The Board of Health recognizes that numerous and significant questions have been asked regarding access and equity in terms of health services, including reproductive health services, indigent care, and end of life care. More recently, questions of access and equity in terms of employee benefits have been raised. We believe the merger representatives have responded to these questions by providing practical solutions to the provision of most services in question. Based on what merger representatives stated at the community forum (October 19th) and in writing elsewhere, the Board of Health finds that the majority of services in question will continue to be provided and made available to the community. However, in certain instances such as with tubal ligations and dispensing of contraceptives, the location and manner in which services are provided will change.

The Board of Health also recognizes the diligence with which the merger partners have worked to address concerns raised regarding health services and information. The Board of Health also notes that there are lingering questions about whether there are discrepancies between answers given at the forum by merger partners and those provided by the archdioceses, particularly regarding how these policies will be applied in practice in the future. Specific questions also remain about the extent to which employees of the new merged entity will have access to certain services in their health benefits plan. Finally, questions persist about what happens if, in the future, the Ethical and Religious Directives of the Catholic Church change in such a way that access to important services are fundamentally altered.

The Board of Health finds that the change in manner and location of service provision potentially creates barriers to access and raises health equity concerns. We acknowledge that the merger organizations have made assurances and committed resources to address some of these concerns by, for example, providing free transportation between sites of care for certain procedures and setting aside funds to ensure continued access to services. Still, access and equity concerns regarding reproductive health services continue because these services are for a specific group in the community and this group will be treated differently (e.g. including women, West End residents, uninsured and underinsured, and employees of the newly merged organization). From a public health perspective, anytime a group or class of people is to be treated differently than others, there is a concern for inequity and a need for higher scrutiny. Moreover, when health equity concerns are present, there is a higher degree

of assurance required that the manner in which services are delivered does not, in practice, create access barriers to certain groups of people.

The role of the Board of Health is to assess and voice community concerns regarding issues affecting the public's health, to view these concerns through an access and equity lens, to develop recommendations, and to assure continued access to care. Therefore, when access and equity concerns are raised, the threshold for assuring access to care is heightened and it is the responsibility of the Board to be part of a process to assure that these issues are addressed in the actual delivery of services. Our recommendation below is meant to address this important issue.

4. *Assurance and monitoring.* Given the existing health access and health equity concerns, the Board of Health recommends that if the merger is approved and implemented, that a mechanism for monitoring and evaluation be developed. Such monitoring and evaluation would assure that commitments made by the merging entities are carried out in the manner proposed and that no group of people in the community experiences a decrease in access to health services or are inequitably affected by changes brought about by the merger. Both proactive and reactive mechanisms should be used in monitoring and should include the community as a key stakeholder. More broadly, the Board recommends that this process of assurance occur within the context of a community-wide effort to evaluate the public health infrastructure of Metro Louisville and the impact on access and equity of changes that may occur in the future beyond the changes that may occur specifically resulting from the merger.

The Board of Health recommends the development of assurance mechanisms take place in a collaborative effort with merger partners, community stakeholders, government entities, and others. Findings from the proposed assurance mechanisms should be shared publicly as a sort of annual report to the community.

The Board of Health recommends that the Governor consider the monitoring and evaluation mechanisms as an essential tool in assuring health access and equity in the community should he approve the merger.

Frequency Count of Community Questions as of November 3, 2011 (Total – 189)

